

UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO

HORIZON AG PRODUCTS, INC. et. al.,

Plaintiff,

v.

ANTHONY FILYK,

Defendant.

CIV-00-521 JP/WWD

FILED
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JP/WWD

**RESPONSE TO MOTION TO COMPEL COMPLIANCE
WITH PREVIOUS AGREEMENT TO PRODUCE DOCUMENTS**

Defendant Anthony Filyk, by and through counsel of record hereby responds to Plaintiff's Motion to Compel Compliance with previous Agreement to Produce Documents.

Plaintiff's assertion that Defendant "refused" to deliver documents is an overstatement. In fact, Defendant only sought to have the return of the documents be part of a global settlement of this case. See letter of Defendant's counsel attached to the Motion as Exhibit B. There was never a specific agreement as to when the documents would be returned. Nevertheless, upon receiving the Plaintiff's Motion, Defendant did agree to make the documents available to Plaintiff. See Letter of Defendant's Counsel attached hereto as Exhibit A. The documents were delivered to counsel for Plaintiff on or before July 20, 2000. See letter of Defendant's counsel attached hereto as Exhibit B. The documents delivered to Plaintiff's counsel included all documents as to which there is no dispute over ownership, as agreed by Plaintiff in the preliminary injunction hearing.

Defendant having complied with his agreement to return documents, and all documents as to which there is no dispute over ownership having been returned to Plaintiffs, the Motion should be denied.

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Respectfully submitted,

HISEY & CADIGAN, LLP

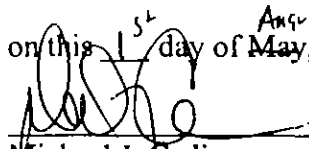
By 

Michael J. Cadigan
Counsel for Defendants
6400 Uptown Blvd. Suite 570W
Albuquerque, New Mexico 87110
(505) 830-2076 (505) 830-2385

I hereby certify that a true and correct copy
of the foregoing was mailed to:

William R. Keleher
Michael L. Carrico
Modrall, Sperling, Rochl, Harris & Sisk, P.A.
P.O. Box 2168
Bank of America Centre, Suite 1000
500 Fourth Street, N.W.
Albuquerque, NM 87103-2168

on this ^{5th} day of ^{August} ~~May~~, 2000.


Michael J. Cadigan

July 20, 2000

Via Fax 848-1891

Mr. Michael Carrico
Modrall, Sperling, Roehl
Harris & Sisk, P.A.
P.O. Box 2168
Albuquerque, NM 87103-2168

Re: **Horizon Ag Products, Inc. et. al. v. Anthony Filyk**
CIV 00-0521 JP/WWD

Dear Mr. Carrico:

I enclose documents as to which there is no dispute that Tierra Resources LLC or Horizon Ag owns and has paid for. Please let me know if you will withdraw your Motion to Compel as soon as possible. I would also request an extension of time to respond to the Motion until one week after you inform me of you client's decision. I enclose an inventory of the documents enclosed. Please let me know if you have any dispute with the inventory.

Sincerely,

HISEY & CADIGAN, LLP

By S/
Michael J. Cadigan

MJC/bcg

Exhibit B

Documents given to counsel for Horizon Ag

- 1) Map of La Plata Mine 10/8/97
- 2) Navajo Reservation Master Road Plan Map 5/98
- 3) Carbon-Pacific Joint Venture Map
- 4) 07/15/98 Memo to Farmar Re: Screen Acquisition
- 5) 07/15/98 Memo to Farmar Re: Screen Lease Agreement with attachments
- 6) 07/14/98 Memo to Farmar Re: Screen Acquisition with Tables (10 pages)
- 7) 06/27/98 Memo to Farmar Re: Screen Purchase (3 pages)
- 8) 07/01/98 Memo to Farmar Re: Screen Acquisition
- 9) 06/08/98 Memo to King Re: Lamar Fink Phone Call (3 pages)
- 10) 07/14/97 Letter to George Gilfillan
- 11) 10/07/97 Memo to Farmar Re: NEFF TRUST (5 pages w/map)
- 12) 11/11/97 Memo to Farmar Re: Permitting Jones Mine Property for Mining and processing Humate; Lease of Privately owned Land (Gamerco Associates) with Maps.
- 13) 07/18/98 Memo to Farmar Re: My July 18 Letter to You Confusion Surrounding Screen Acquisition
- 14) 07/17/98 Memo to Farmar Re: Confusion Surrounding Screen Acquisition
- 15) 06/27/98 Memo to Farmar Re: Tables for Humate Sources (14 pages)
- 16) 10/06/97 Notes on green paper (11 pages)
- 17) No Name Humate Mine Project Development Schedule 10/15/98
- 18) 08/21/97 Green paper notes with 2 pages of cost estimates
- 19) 07/29/97 Memo to Brad Knickle Re: Capital Cost for Processing Plant to produce 200 Mesh Humate (4 pages with dragon)
- 20) 08/21/97 Memo to Farmar Re: Capital Cost Estimates for Humate Mining and Processing with Cost estimates (17 pages)
- 21) 07/16/98 Memo to Farmar Re: Screen Acquisition with draft lease and options table
- 22) 05/11/98 Memo to Farmar Re: Catalogue of Samples for Humate Exploration Program (13 pages)
- 23) Status of Humate Under Public Lands paper June 2-6 1997
- 24) 07/14/97 Memo to Farmar Re: Report on preliminary activities related to developing new humate sources
- 25) 11/17/97 Memo to Farmar Re: Company names
- 26) 06/01/98 Memo to Farmar Re: May 29 Telecon with Patty Machado
- 27) 09/15/97 Memo to Farmar Re: Exporation priorities
- 28) Assag Reports and notes (54 pages)